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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,419	05/15/2006	Jozef Pieter Van Gassel	NL 031339	7897

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EXAMINER	
KAYRISH, MATTHEW	
ART UNIT	PAPER NUMBER
2627	
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11/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/579,419	VAN GASSEL, JOZEF PIETER	
	Examiner	Art Unit	
	MATTHEW G. KAYRISH	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 July 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6 and 8-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6 and 8-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claim 1 has been amended to include the limitations of canceled claim 7. Claims 1-4, 6, 8 and 9 have been amended to remove the reference symbols. Claim 11 has been added. Claims 1-4, 6 and 8-11 remain pending.

Response to Arguments

2. Applicant's arguments filed 7/17/2008 with respect to the objection of the specification have been fully considered but they are not persuasive. Applicant contends the headings of each separate subsection are not required in accordance with MPEP section 608.01(a). The examiner disagrees. MPEP section 608.01(a) under Arrangement of Application [R-5], 37 CFR 1.77 paragraph (b) states: the specification should include the following sections in order: Subparagraphs (6)-(9) refer to the Background of Prior Art, Summary of the Invention, Brief Description of the Drawings and Detailed Description of the Invention. As presented in the present application, absent these subtitles, the application is not clear and concise in accordance with MPEP section 608.01, as it is difficult to accurately locate the separate locations of the application.

Applicant's arguments, filed 7/17/2008, with respect to the objection of claim 4-6 have been fully considered and are persuasive. The previous rejection has been withdrawn.

Applicant's arguments with respect to claim 7 have been considered but are moot in view of the new grounds of rejection. Specifically, Official Notice was taken regarding

claim 7 because powering down the disc when the buffer is full is a well known method for saving power. Applicant requested a teaching of this, which is presented below under the new grounds of rejection. Please note, the examiner is not relying on any additional features of the added teaching reference.

Specification

3. The disclosure is objected to because of the following informalities:

The sub-titles within the disclosure are missing. The application should contain these sub-titles because this makes understanding the present application easier and helps to distinguish between the background, summary, drawings and the disclosure.

The examiner recommends the sub-title "Background of Prior Art" inserted before page 1, line 1 of the specification.

The examiner recommends the sub-title "Summary of the Invention" inserted before page 2, line 25 of the specification.

The examiner recommends the sub-title "Brief Description of the Drawings" inserted before page 4, line 30 of the specification.

The examiner recommends the sub-title "Disclosure of the Invention" inserted before page 5, line 12 of the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-3 and 8-11 are rejected under 35 U.S.C. 103(A) as being unpatentable over Wu (US Patent Number 6865627), in view of Silvester (US PG-Pub 2003/0067847).

Regarding claims 1 and 8, Wu discloses:

A playback device (figure 1, item 176) for playback of a media stream from a storage medium (column 6, lines 17-21), the device comprising reading means for reading at least a part of the media stream (column 4, lines 23-49), a buffer (figure 2, item 210) for holding the part of the media stream (columns 6 & 7, lines 61-67 & 1-12), a playback unit (figure 2, item 204) for consuming the part of the media stream from the buffer (column 6, lines 61-67) at a predefined rate (column 7, lines 13-25), and control means for controlling the reading of the media stream from the storage medium (column 7, lines 13-25), filling of the buffer and the playback of the media stream (columns 6 & 7, lines 61-67 & 1-12), wherein the control means comprise means for retrieving playback mode control information (column 7, lines 26-54), and means for calculating a buffer refilling time depending on the playback mode control information (column 7, lines 26-54).

Wu fails to specifically disclose:

Wherein the control means are arranged for turning the device in a low power consuming mode for a time interval depending on the buffer refilling time.

Silvester discloses:

A playback device (paragraph 1) for playback of a media stream from a storage medium (paragraph 2), the device comprising reading means for reading at least a part of the media stream (paragraph 3, figure 1, item 24), a buffer (paragraph 15) for holding the part of the media stream (inherent), a playback unit (figure 1, item 222), and control means for controlling the reading of the media stream from the storage medium (figure 3, displayed by the loop including items 38, 40, 42, 44 and 46), filling of the buffer and the playback of the media stream (figure 2, item 42), which control means comprise means for retrieving playback mode control information (figure 2, item 42).

Wherein the control means are arranged for turning the device in a low power consuming mode (figure 2, item 34) for a time interval depending on the buffer refilling time.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Wu with a method of powering down the spinning the disc in between buffer refilling times, as taught by Silvester, because this will help to consume low amounts of power as stated in paragraph 15.

Regarding claim 2, Wu and Silvester disclose the features of base claim 1, as stated in the 103 rejection above, and Wu further discloses:

Wherein the means for retrieving playback mode control information are arranged for retrieving characteristic point information (columns 9 & 10, lines 43-67 & 1-13; figure3) and the means for calculating the buffer refilling time are arranged for calculating the buffer refilling time depending on the characteristic point information (column 7, lines 26-54).

Regarding claims 3 and 9, Wu and Silvester disclose the features of base claim 1, as stated in the 103 rejection above, and Wu further discloses:

The control means are arranged for calculating the buffer filling period depending on information concerning retrieval of the media stream (columns 6 & 8, lines 17-46 & 54-60).

Regarding claim 10, Wu discloses the features of base claim 8, as stated in the 102 rejection above, and further discloses:

A computer program product which program is operative to cause a processor to perform the method (abstract).

Regarding claim 11, Wu and Silvester disclose the features of base claim 1, as stated in the 103 rejection above, and Wu further discloses:

The control means are arranged for calculating the buffer filling period depending on information from the file system info (columns 6 & 8, lines 17-46 & 54-60).

6. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu and Silvester, as applied to claim 3 above, and further in view of Jacobs et al (US Patent Number 5802032).

Regarding claims 4 and 6, Wu and Silvester disclose the features of base claim 3, as stated in the 103 rejection above, but fail to specifically disclose:

The control means are arranged for calculating the buffer filling period depending on information about the location of the part of the media stream on the storage medium.

Jacobs discloses:

A playback device (figure 5) for playback of a media stream from a storage medium (column 8, lines 36-43), the device comprising reading means for reading at least a part of the media stream (figure 4, item 4), a playback unit for consuming the part of the media stream (column 1, lines 10-33) at a predefined rate (column 8, lines 44-67);

A control means are arranged for calculating the frequency of the data signal (column 8, lines 43-67) depending on information about the location of the part of the media stream on the storage medium (column 8, lines 43-67).

A control means arranged for calculating the frequency of the data signal depending on information about the position of a disk head (column 8, lines 43-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the radial position of the head to calculate the refill time of the buffer of Wu, as suggested by Jacobs, because for a constant angular velocity and pulse width, it is inherent that a larger radial position will increase the frequency of the data signal, therefore, the refill time will decrease with increase of radius of the head position.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW G. KAYRISH whose telephone number is (571)272-4220. The examiner can normally be reached on 8am - 5pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on 571-272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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10/30/2008

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